

§ 58-12-6. Risk-based capital reports.

(a) Every domestic insurer shall, on or before each March 1 (the "filing date"), prepare and submit to the Commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing such information as is required by the risk-based capital instructions. In addition, every domestic insurer shall file its risk-based capital report:

- (1) With the NAIC in accordance with the risk-based capital instructions; and
- (2) With the insurance regulator in any state in which the insurer is authorized to do business, if the Commissioner has notified the insurer of its request in writing, in which case the insurer shall file its risk-based capital report not later than the later of:
 - a. Fifteen days after the receipt of notice to file its risk-based capital report with that state; or
 - b. The filing date.

(b) A life or health insurer's risk-based capital shall be determined in accordance with the formula set forth in the risk-based capital instructions. The formula shall take into account (and may adjust for the covariance between):

- (1) The risk with respect to the insurer's assets;
- (2) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;
- (3) The interest rate risk with respect to the insurer's business; and
- (4) All other business risks and such other relevant risks as are set forth in the risk-based capital instructions.

These risks shall be determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.

(c) If a domestic insurer files a risk-based capital report that in the judgment of the Commissioner is inaccurate, the Commissioner shall adjust the risk-based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. A risk-based capital report as adjusted is referred to as an "adjusted risk-based capital report".

(d) A property or casualty insurer's risk-based capital and a health organization's risk-based capital shall be determined in accordance with the formula set forth in the risk-based capital instructions. The formula shall take into account (and may adjust for the covariance between):

- (1) Asset risk;
- (2) Credit risk;
- (3) Underwriting risk; and
- (4) All business and other relevant risks set forth in the risk-based capital instructions, determined in each case by applying the factors in the manner set forth in the risk-based capital instructions. (1993 (Reg. Sess., 1994), c. 678, s. 1; 1995, c. 318, s. 4; 2001-223, s. 12.4.)